THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.13875 OF 2007

DATED: 07-09-2007

BETWEEN

M/s. Balaji Manikanta Nivas Apartments,
Rep. by its Managing-cum-Working Partner,
Gadamsetty Tirupathaiah, S/o. Narayana,
Occ: Business, R/o. Buchireddypalem Village,
Buchireddypalem Mandal, Nellore District.

…PETITIONER

AND

The District Panchayat Officer,
Nellore, Nellore District and others.

…RESPONDENTS

ORDER:

Petitioner seeks a Writ of Mandamus to declare the action of the District Panchayat Officer – the first respondent in not granting interim relief pending appeal, presented against the resolution No.131 dated 01.06.2007 of the second respondent – Gram Panchayat, as illegal and arbitrary and to direct the respondents not to enforce the said resolution.

2. The second respondent – Gram Panchayat passed the resolution stating that the Gram Panchayat sanctioned construction of G + 3 floors building in premises bearing D.No.11-5-34/6, Sy.Nos.218/3 and 214/1, without verifying the title to the said property and without there being a likelihood of the litigation getting resolved between the parties, pending in the Courts, in the near future, the persons who are entitled to get electricity connection has to obtain no objection certificate from the Panchayat

Secretary. Aggrieved by the said resolution, the petitioner filed an appeal and admittedly the appeal is pending. It is stated that the appellate authority has not passed any orders on the stay application filed along with the appeal on 19.06.2007.

3. Learned counsel for the petitioner submits that the appellate authority may be directed to consider and dispose the appeal itself as expeditiously as possible without any undue delay.

4. Learned Standing Counsel for the first respondent submits that the competent authority to cancel the resolution of the Gram Panchayat under Section 246 of the Panchayat Raj Act is the Government on the recommendations of the District Collector, therefore, the appeal is not maintainable.

5. I am not inclined to express any opinion as to whether the appeal is maintainable or not and if it is not maintainable it is for the appellate authority to say so by passing appropriate orders on the appeal.

6. Having regard to the facts and circumstances of the case,
the first respondent/appellate authority, before whom the appeal along with stay application dated 19.06.2007 has been filed, is directed to consider and dispose the appeal itself as expeditiously as possible, after giving reasonable opportunity to the petitioner and the Gram Panchayat, in accordance with law preferably within a period of six weeks from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. There shall be no order as to costs.

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V. ESWARAIAH, J

September 7, 2007
DSK